



Report to the Auburn City Council

Action Item

9

Agenda Item No.

City Manager's Approval

To: Mayor and City Council Members
From: Kevin Hanley, Vice Mayor
Date: April 9, 2012
Subject: Letter of Support to Senator Feinstein; American with Disabilities Act Reform

The Issue

Shall the Auburn City Council send a letter of support to Senator Feinstein urging her to continue her efforts to push for ADA reform at the state and federal levels?

Conclusion and Recommendation

Send the enclosed letter to Senator Feinstein urging her to continue her efforts to push for ADA reform at the state and federal levels.

Background

As seen in Attachment 1, on March 8th, 2012, Senator Feinstein sent a letter to Senate President pro Tempore Darrell Steinberg expressing her concern *“regarding the increasing number of predatory lawsuits and coercive demand letters that have been filed against small business owners for often-minor items of noncompliance with the American with Disabilities Act (ADA).”*

She decried the *“shakedown”* tactics used by some lawyers, which place financial strains on small businesses and counterproductively leave these businesses with less money available to make access improvements for the disabled. In the letter to Senator Steinberg, she mentioned that action on SB 1186 (Dutton) is pending and that she will *“introducing legislation in the U.S. Senate if this problem cannot be solved by the California State Legislature.”*

SB 1186 (Dutton) is similar to SB 783 (Dutton) of 2011, which gives business owners a “right to cure” the problem within 120 days before a lawsuit is allowed. The Auburn City Council endorsed SB 783 (Dutton) on July 18, 2011.

As can be seen in the April 4, 2012 *Los Angeles Times* article, Senator Steinberg indicted his view that legislation enacted in 2008 solved the problem. This is incorrect. With the increased number of predatory lawsuits around the state and in the Auburn area since 2008, it is clear that Senator Steinberg is wrong.

On behalf of the small businesses in the Auburn area who are suffering from these predatory lawsuits, I believe that it would be appropriate for the Auburn City Council to send a letter to Senator Feinstein urge her to continue her efforts to push for ADA reform at the state and federal level. Attachment 3 is a draft letter for council consideration.

Fiscal Effect

None.

Alternatives

Do not send a letter to Senator Feinstein.

Attachments:

- (1) May 8, 2012 letter from Senator Feinstein to Senate President pro Tempore Darrell Steinberg.
- (2) "Sen. Feinstein Calls on State to Curb 'Abusive Lawsuits' over ADA," April 4, 2012 *Los Angeles Times* article.
- (3) Draft letter to Senator Feinstein.

City of Auburn

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April 9, 2012

Honorable Diane Feinstein
United States Senate
Washington D.C. 20510-0504

Dear Senator Feinstein:

On behalf of the Auburn City Council, we would like to express our full support for your position, as stated in your May 8th, 2012 letter to Senate President pro Tempore Steinberg, in which you called for action by the California State Senate to an end the practice of predatory American with Disability Act (ADA) lawsuits. We fully support your statement in your letter that you will "consider introducing legislation in the U.S. Senate if this problem cannot be solved by the California State Legislature."

Senator Steinberg's response to you that legislation passed in 2008 solved this problem is just plain wrong. This problem has gotten much worse for us since 2008. Numerous small businesses in the historic gold rush town of Auburn have been hit with these predatory lawsuits over the last several years. These businesses are being told that if they pay thousands of dollars in a settlement that the lawsuit will just go away. This abuse of the ADA must stop.

On July 18, 2011, the Auburn City Council endorsed SB 783 (Dutton), which would give businesses a 120-day opportunity to fix any access problem before a lawsuit is filed. The California State Senate killed this common sense bill. In your letter to Senator Steinberg you mentioned SB 1186 (Dutton) of 2012 as a potential solution to the problem of predatory lawsuits. Since SB 1186 (Dutton) is similar to last year's SB 783 (Dutton), we fear that the California State Senate will once again ignore this growing public policy problem.

We appreciate any action that you take, whether you make further efforts to try to persuade the California State Senate to enact reforms or you enact federal legislation to end these predatory lawsuits and the wrongful abuse of the ADA.

Keith Nesbitt
Mayor of Auburn

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